## REMARKS

Claims 1-30 are pending in the application.

Claims 1, 2, 4, 5, 8-12, 14, 15, 18-22, 24, 25 and 28-30 have been rejected.

Claim 24 has been amended herein to correct a typographical error.

Claims 1-30 are therefore pending.

CLAIM REJECTIONS -- 35 U.S.C. §103

Claims 1, 2, 4, 5, 8-12, 14, 15, 18-22, 24, 25 and 28-30 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,912, 293 to *Korobkin* (hereinafter Korobkin) in view of U.S. Patent No. 6,624,810 to *Brokenshire, et al.* (hereinafter Brokenshire). The aforementioned rejection is respectfully traversed for the reasons given below.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-125 (8th ed. rev. 5, August 2006). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

The Examiner concedes that Korobkin fails to teach a binary-space-partition tree having up to *a predetermined number of at least one shape associated with each leaf.* The Office cites

to Brokenshire solely for allegedly teaching at least one shape associated with each leaf. Brokenshire, however, teaches a narrowly directed system for reducing the subspace boundary in a binary space partitioning tree. Although Brokenshire teaches subplanes within planes, Brokenshire fails to teach or disclose a binary-space-partition tree having up to *a predetermined number of at least one shape associated with each leaf*, as required by independent claims of the present application. Moreover, there is no suggestion or motivation within Korobkin or in Brokenshire, either alone or in combination, for one skilled in the art to combine discrete elements from Korobkin and then *seek out* still others as required by Claims 1, 2, 4, 5, 8-12, 14, 15, 18-22, 24, 25 and 28-30 of the present application.

The rejection of Claims 1, 2, 4, 5, 8-12, 14, 15, 18-22, 24, 25 and 28-30 under 35 U.S.C. § 103(e) has therefore been overcome. Accordingly, Applicants respectfully request withdrawal of the §103 rejection.

Claims 3, 6, 7, 13, 16, 17, 23, 26 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Korobkin in view of Brokenshire and in further view of U.S. Patent Publication No. 2004/0114794 to *Vlasic, et al.* (hereinafter Vlasic). The aforementioned rejection is respectfully traversed for the reasons given below.

The Office cites to Vlasic solely for the purpose of teaching caching of shape data. Vlasic, however, narrowly teaches a system for an image based rendering or modeling of a 3D object from a limited set of fixed images. Vlasic, unlike Korobkin, requires the use of a triangular mesh defining a surface shape or model of an object. Vlasic, ¶ [0024]. For each vertex in the mesh, Vlasic locates a set of visible views. *Id.* at ¶ [0026]. After collecting a set of closest views, blending weights are determined to render an image. *Id.* at ¶¶ [0027-0028]. As such, Korobkin, Brokenshire and Vlasic, either alone or in combination, fails to teach or disclose

a binary-space-partition tree having up to *a predetermined number of at least one shape associated with each leaf*, as required by independent claims of the present application. Moreover, there is no suggestion or motivation within the Vlasic reference for one skilled in the art to combine discrete elements from Korobkin and Brokenshire and then *seek out* still other elements as required by Claims 3, 6, 7, 13, 16, 17, 23, 26 and 27 of the present application.

The rejection of Claims 3, 6, 7, 13, 16, 17, 23, 26 and 27 under 35 U.S.C. § 103(e) has therefore been overcome. Accordingly, Applicants respectfully request withdrawal of the §103 rejection.

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## CONCLUSION

As a result of the foregoing, the Applicants assert that the remaining Claims in the Application are in condition for allowance, and respectfully request an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at ***manderson@munckbutrus.com***.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS P.C.

Date: 10/10/06

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